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September 11, 2018

**Via Email Only**

**Agenda Item no. 10**

City Planning Commissioners  
City of Los Angeles  
[cpc@lacity.org](mailto:cpc@lacity.org)

Re: Response to Department of City Planning Appeal Report regarding the Schrader Hotel Project (VTT-74521-1A, ENV-2016-3751-MND)

Dear Honorable Planning Commissioners:

We write on behalf of the **Coalition for Responsible Equitable Economic Development (“CREED LA”)**, John Ferruccio, Jorge L. Aceves, John P. Bustos, Gerry Kennon, and Chris S. Macias, to respond to the City of Los Angeles (“City”) Department of City Planning Appeal Report (“Appeal Report”) prepared for the September 13, 2018 City Planning Commission hearing regarding the Hotel project located at 1600-1616 ½ North Schrader Boulevard and 6533 West Selma Avenue (“Project”) (VTT-74521-1A, ENV-2016-3751-MND).

On June 7, 2018 we submitted comments on the Project’s MND. On July 18, 2018, we submitted our response to the City’s response to comments. On August 3, 2018, the Advisory Agency filed a letter of determination approving the VTT and the MND and, on August 13, 2018, we submitted our appeal on the Advisory Agency’s decision. The Appeal Report contains responses to some of our appeal arguments. However, the Appeal Report fails to resolve the issues we raised, as detailed below, and our comments still stand.<sup>1</sup> Moreover, the Appeal Report reveals that the MND’s noise analysis is not supported by substantial evidence; instead, it contradicts explicit language in the Advisory Agency Letter of Determination.

In short, the MND still fails to comply with the requirements of the California Environmental Quality Act<sup>2</sup> (“CEQA”) because substantial evidence supports a fair argument that the Project may cause: (1) a significant, unmitigated

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<sup>1</sup> We incorporate our June 7, 2018, July 18, 2018 and August 13, 2018 comments, along with their attachments and exhibit, herein by reference.

<sup>2</sup> Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs. §§ 15000 et seq. (“CEQA Guidelines”).  
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impact on public health from toxic air contaminants (“TACs”), particularly for school-aged children and (2) a significant, unmitigated impact from noise.<sup>3</sup>

**(1) Substantial evidence supports a fair argument that the Project may result in potentially significant impacts on public health, especially for school age children attending the nearby schools.**

In our previous comments, we explained that the City has a duty to assess the impacts the project may have on public health and pointed out to a long line of court rulings establishing that duty.<sup>4</sup> Moreover, SWAPE provided an expert opinion, supported by substantial evidence, that the Project may result in a significant impact on public health.<sup>5</sup> In the Appeal Response, the City repeats its claim it has no duty to perform a health risk assessment.<sup>6</sup> The City, however, does acknowledge some impacts the project may have on the nearby school children and added two supplementary safety-related mitigation measures accordingly.<sup>7</sup>

SWAPE conducted a supplemental health risk assessment to evaluate the health risk posed to those school children attending the Selma Avenue Elementary School and the Blessed Sacrament School located near the Project site, which have not been addressed or evaluated in any report or analysis prepared for the Project. SWAPE’s modeling and assumptions are detailed in their letter.<sup>8</sup> SWAPE’s analysis found that *the excess cancer risk to a school child from ages five to fourteen years old is approximately 850 in one million*, which greatly exceeds the SCAQMD’s threshold of ten in one million.<sup>9</sup> The City must therefore prepare an EIR to analyze and mitigate this potentially significant public health impact, as required by law.

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<sup>3</sup> We reviewed the City’s analysis and responses with the assistance of air quality and hazards experts Matt Hagemann and Hadley Nolan of Soil/Water/Air Protection Enterprise (“SWAPE”) and of acoustic expert Neil Shaw, FASA, FAES of Menlo Scientific Acoustic, Inc. SWAPE’s and Mr. Shaw’s comments are attached hereto as Exhibit A and Exhibit B, respectively, and are fully incorporated herein and submitted to the City herewith.

<sup>4</sup> CREED L.A., Schrader Hotel Project Mitigated Negative Declaration, July 18, 2018.

<sup>5</sup> SWAPE, Comments on the Schrader Hotel Project, June 7, 2018.

<sup>6</sup> Appeal Report, p. A-7.

<sup>7</sup> Appeal Report, p. A-2.

<sup>8</sup> See Exhibit A: SWAPE’s comments, September 10, 2018.

<sup>9</sup> See Exhibit A: SWAPE’s comments, September 10, 2018, p. 4.

**(2) Substantial evidence supports a fair argument that the Project may result in potentially significant impacts from noise.**

The MND's noise impacts analysis relies heavily on the application of "Project Design Feature" number 2 (PDF-2), a digital audio processor (DAP) which is supposed to limit the noise level from the 11<sup>th</sup> floor rooftop deck to no more than 84 dBA.<sup>10</sup> The Noise Appendix calculations therefore assume noise levels at the 11<sup>th</sup> floor do not exceed 84.32 dBA.<sup>11</sup> The Appeal Report, however, states: "Moreover, PDF-4 includes specific measures that would be implemented in the event external audio equipment produces noise levels that exceed the identified threshold levels."<sup>12</sup> *This statement means that outside audio equipment that is not controlled by the mitigation measure will be allowed and used on the 11<sup>th</sup> floor rooftop.* There are several problems with this statement:

First, it contradicts previous statements by the City. In its August 2, 2018 response to comments, the City argued the system described in PDF-2 "would apply to all amplified sound within the proposed hotel and outdoor area" and that "[e]ntertainers would be prohibited from bringing in outside equipment that bypasses the hotel's audio system control."<sup>13</sup> The City failed to point to any language indicating such prohibition, and it is clear no such prohibition exists.

More importantly, the staff response means the MND's noise analysis is wholly unsupported. As explained above, the Noise Appendix calculation are all based on the assumption of a baseline level of 84.32 dBA, since all output sound is supposed to be controlled by the DAP. Because outside equipment, not controlled by the DAP, will be allowed on the rooftop, noise levels will in fact be much higher – the MND itself indicates levels of 104 dBA.<sup>14</sup> There is therefore no support for the noise analysis' reliance on 84 dBA noise levels, and an EIR must be prepared to account for potentially significant impacts from the correct noise levels.

Moreover, in and of itself, the staff response is not supported by substantial evidence, as it relies on a "design feature" that cannot actually mitigate the impacts.

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<sup>10</sup> MND, p. II-41

<sup>11</sup> Exhibit 1: Neil Shaw comments, September 7, p. 1. To these levels, the MND adds further reductions from distance and from the glass barrier.

<sup>12</sup> Appeal Report, p. A-8.

<sup>13</sup> City of Los Angeles, Schrader Hotel Project Responses to Comments, August 2, 2018, p. 45.

<sup>14</sup> MND, p. III-106.

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PDF-4 refers to rules on the hours of operations, requires closing the doors of the dining area when live entertainment/amplified music is being played, and requires closing doors and windows in response to complaints. Nothing in this design feature can mitigate the significant noise impacts created by outside equipment and acoustic instruments.<sup>15</sup>

The Appeal Report also fails to respond to other flaws detailed in the appellants' previous letter. One, the glass barrier will not mitigate low-frequency noise.<sup>16</sup> Two, the complaint system is not a proper mitigation measure because it is unenforceable; specifically, it is only reactive and not pro-active and the system hours do not even coincide with the rooftop operation hours.<sup>17</sup>

All the above-mentioned flaws further emphasize the other major flaw in the City's analysis – the fact that it compressed the analysis of impacts and mitigation measures and relied on design features for mitigation without disclosing the Project's impacts, in violation of CEQA. The Appeal Report merely argues in response that the digital audio processor is not a mitigation measure.<sup>18</sup> However, the fact is that the City's analysis "obfuscates required disclosure of the project's environmental impacts and analysis of potential mitigation measures."<sup>19</sup>

The City must prepare an EIR to analyze and mitigate the Project's potentially significant impacts.

Sincerely,

/s/

Tanya A. Gulesserian  
Nirit Lotan

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<sup>15</sup> Exhibit 1: Neil Shaw comments, September 7, p. 1. See also CREED L.A. Appeal, August 13, 2018.

<sup>16</sup> Exhibit 1: Neil Shaw comments, September 7, See also previous Shaw comments. Moreover, nothing in the MND prevents live music from being played outside the enclosed dining area, rendering the complaint system useless.

<sup>17</sup> According to the MMP, PDF-4.g. requires closing the doors and windows of the penthouse in response to complaints between 7 am and 12 am, but operation hours of the penthouse are up until 2 am, and only the doors must be closed past 12 am, but not the windows.

<sup>18</sup> Appeal Report, p. A-8.

<sup>19</sup> *Mission Bay All. v. Office of Cmty. Inv. & Infrastructure*, 6 Cal. App. 5th 160, 185, 211.

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